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AMENDMENTS/REMARKS

Claims 1, 11, 13 and 20 have been amended. Claim 6 has been cancelled without prejudice. Claims 1 through 5, 7 through 13, and 15 through 20 remain in the application.

Claims 1 through 13 and 15 through 20 were rejected under 35 USC §103(a) as being unpatentable over U.S. Patent No. 5,667,261 to Weinerman in view of U.S. Patent No. 6,561,556 to Fuchs. Applicant respectfully traverses this rejection.

U.S. Patent No. 5,667,261 to Weinerman, et al discloses a handle operated heavy duty draw latch with safety catch.

U.S. Patent 6,561,556 to Fuchs discloses a closure clamp.

In contradistinction, claims 1, 11, 13 and 20, as amended, claim a clamp having a spring wherein the spring automatically repositions and holds a bracket a predetermined distance from a surface of a handle when the clamp is in an open position.

The Weinerman, et al '261 reference alone or in combination with the Fuchs '556 reference does not disclose, suggest, teach or contemplate Applicant's invention as claimed in amended claims 1, 11, 13 and 20. In particular, neither reference discloses, teaches, suggests or contemplates a clamp having a spring wherein the spring automatically repositions and holds a bracket at a predetermined distance or position from a surface of a handle of the clamp when the clamp is in an open or unclamped position. Nowhere in either reference is it contemplated, suggested or taught to have a spring that will hold a bracket at a predetermined position when the clamp is open to ensure that the bracket does not interfere with the operator of the clamp or the components or work pieces being held by the clamp. In fact, the Fuchs '556 reference does not anywhere disclose, teach, suggest or even contemplate the use of a spring. Furthermore, the use of the tab in the present invention along with the spring will ensure that the clamp may be a

completely one hand operable mechanism such that the bracket would not have to be positioned over a latch or other component being clamped by the users free hand, i.e., the hand not engaging the handle of the clamp during the closing or opening of the clamp. Hence, as neither of the references suggest, teach or contemplate the use of the spring as claimed in the amended claims, such a feature cannot be inferred into such references. Furthermore, it is not proper for the Examiner to infer the limitation into a combination of references where there is no disclosure, teaching or suggestion for such limitation in any of the references cited by the Examiner. The failure of any of the references to teach use of the spring as claimed in the amended claims in and of itself proves that such limitation is not obvious and therefore is patentable. It is also not proper for the Examiner to infer such limitation or read them into the references in hindsight after first reviewing the Applicant's invention. Therefore, unless the Examiner can cite a specific teaching, disclosure or suggestion of such limitation, this limitation cannot be inferred into the prior art references as being obvious in the art or well known in the art. Therefore, as there is no specific example, teaching or suggestion of this limitation mentioned in any of the prior art cited by the Examiner, any combination of these references cannot be used to result in the clamp as claimed by Applicant in amended claims 1, 11, 13 and 20. Therefore, it is respectfully submitted that claims 1 through 13, and 15 through 20, as amended, overcome the rejection under 35 USC §103(a) and are allowable over this rejection.

If Applicant may be of any further assistance or provide any other information in the prosecution of this application, the Examiner is requested to call the undersigned at (248) 364-2100.

Respectfully submitted,

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